IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12838 of 2006
TO
SPECIAL CIVIL APPLICATION No. 12841 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GENERAL MANAGER, O.N.G.C. - Petitioner(s)
Versus
SEVENTOLIYAR K PARMAR & 1 - Respondent(s)

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Appearance :
MR AJAY R MEHTA for Petitioner(s) : 1,
MR LN MEDIPALLY for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,
RULE NOT RECD BACK for Respondent(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 30/11/2006

COMMON ORAL JUDGMENT

Heard the learned advocates.

In this group of petitions, the Oil and Natural Gas Corporation Limited (hereinafter referred to as, **"the Corporation"**) has challenged the orders dated 23rd November, 2005 made by the Central Government Industrial Tribunal, Ahmedabad below Applications Exh.2 in Complaints Nos.110/2005, 111/2005, 113/2005 and 114/2005 in pending Reference (C.G.I.T.A.) No.215/2004.

It appears that certain contract labourers (hereinafter referred to as, **"the workmen"**) had claimed a right to absorption in service of the Corporation. Pursuant to the said claim made by the workmen, the dispute came to be referred to the Central Government Industrial Tribunal and registered as Reference No.139/1999 (renumbered as Reference No.215/2004). In the said pending reference, the respondent No.1 in the present petitions (hereinafter referred to as, **"the complainants"**) took out the above mentioned complaints. Alongwith the complaints they moved application Exh.2 for an interim direction against the Corporation and the concerned labour contractor restraining them from terminating the

service of the complainants. According to the complainants they were party to the pending reference. However, in the terms of reference their names were not correctly recorded. They had moved the appropriate Government for rectification of the terms of reference. However, as they were facing imminent termination of service, their service be protected pending the reference.

On presentation of the said application Exh.2, the Tribunal below, by impugned order dated 23rd November, 2005, issued direction to the Corporation not to terminate the services of the complainants. Feeling aggrieved, the Corporation has preferred the present petitions.

Mr.Mehta has submitted that the above referred reference is pending since the year 1999. Admittedly, the reference made to the Tribunal does not contain the names of the complainants. In other words, the complainants are not party to the pending reference. Nevertheless, under the specious plea that their names were not correctly recorded, they have

approached the Tribunal below and obtained ex-parte interim direction against the Corporation.

Mr.Medipally has submitted that the complainants are party to the pending reference except that their names were not correctly recorded in the terms of reference. He has submitted that the complainants have taken out appropriate proceedings for rectification of the terms of reference. He, however, admits that such applications were made in the month of November, 2005.

I am of the view that the Tribunal below has grossly erred in accepting the applications Exh.2 filed by the complainants. Thereby, the Tribunal has exceeded its jurisdiction and gone beyond the terms of reference. The only proper remedy for the complainants would be to get the terms of reference rectified. Unless and until that is done, the complainants shall have no right or locus standi to approach the Tribunal below in the pending reference.

For the aforesaid reasons, these petitions are

allowed. The impugned order dated 23rd November, 2005 made below applications Exh.2 in respective complaint in pending Reference No.215/2004 are quashed and set-aside. Rule nisi issued in each petition is made absolute. The parties shall bear their own cost.

The Registry will maintain copy of this order in each petition.

(Ms. R.M.Doshit, J.)

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